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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,494	08/30/2001	Cornelis Van Zon	US 010012	7961

24737 7590 03/25/2004

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

LEE, MICHAEL

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 03/25/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/942,494

Applicant(s)

VAN ZON, CORNELIS

Examiner

M. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,8-12,14 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 7, 13, 15, 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 2, 5, 8-12, 14, 17-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 09/734,823. Although the conflicting claims are not identical, they are not patentably distinct from each other because claimed limitations, which are not recited in the patented claims, are considered obvious derivations of patented claims.

Regarding claim 1, the patented claims 1 and 16 meet all the limitations as claimed except the "at least one pair of said plurality of metric model unit is interdependent" as claimed. As stated in the disclosure, both in the patent and the instant application, the metric models can be derived from the sharpness, color, saturation, motion, and similar types of features in video signals. It is well known that the sharpness and motion in a video image are inverse-related or interdependent

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because motion can degrade sharpness or sharpness can reduce motion. Similarly, color and saturation are also interdependent because both of have a function of RGB signals. Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ interdependent metric model units as the metric model units in the patent claim to perform the well known functions as claimed.

Regarding claim 2, see patented claim 2.

Regarding claim 5, see patented claim 5.

Regarding claim 8, patented claim 8 or patented claim 19.

Regarding claim 9, see patented claim 9 or patented claim 19.

Regarding claim 10, see patented claim 10 or patented claim 20.

Regarding claim 11, see patented claim 11.

Regarding claim 12, in addition of rejection to claim 1, see patented claim 12.

Regarding claim 14, in addition of rejection to claim 1, see patented claim 16.

Regarding claim 17, see patented claim 18.

Regarding claim 18, patented claims does not specify the "at least one objective metric model unit for a desirable video image feature and at least one objective metric model unit for an undesirable video image feature" as claimed. In any event, it is understood that the objective metric model unit in the patented claim could be derived from any kind of video image feature, desirable or not. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to derive the objective metric model units from both desirable and undesirable video image feature to perform the well known functions as claimed.

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Regarding claim 19, see patented claim 20.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Allowable Subject Matter***

3. Claims 3, 4, 6, 7, 13, 15, 16, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claim 21 is allowed.

5. The following is an examiner's statement of reasons for allowance: Prior art does not teach or suggest the determining step as recited in claim 21.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wolf et al. (5,596,364) shows a objective testing step 38.

Ferguson (6,678,424) shows a human vision model.

Daniels et al. (6,643,416) shows an object metric model.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Lee whose telephone number is **703-305-4743**.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **John Miller**, can be reached at **703-305-4795**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks


Washington, D.C. 20231

**or faxed to:**

**(703) 872-9306 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

  
**M. Lee**  
**Primary Examiner**  
**Art Unit 2614**

March 21, 2004